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GEORGIA

URGENT UPDATE: TRIAL IN GEORGIA DRAWS TO A CLOSE

SUMMARY

This report is an urgent update on serious human rights violations in a criminal trial in Tbilisi, the capital of the Georgian Republic, as the trial draws to a close after sixteen months in court. In a detailed report released in August 1994, Human Rights Watch/Helsinki compiled the evidence that some, and likely all, of the nineteen defendants in case no. 7493810 - men charged with crimes ranging from murder and terrorism to theft of perfume from a factory - confessed guilt under torture and intimidation and were subsequently denied basic due process rights. Sixteen of the nineteen men are charged with crimes that carry a maximum penalty of death; executions are practiced in Georgia, usually soon after sentencing. Since that report was issued, one defendant continues to suffer torture in jail and twelve of the defendants have been prevented from attending their own trial without justification. Of those absent from the courtroom, only four are being represented by lawyers of their choosing; most are denied the right to counsel altogether. The court is likely to hand down a ruling in early February 1995.

Human Rights Watch/Helsinki's is not in a position to affirm or deny the defendants' involvement in the heinous crimes of which they are accused. However, since the arrest, investigation, detention and trial of these men were conducted with blatant disregard for the right to a fair trial of the defendants and for the rights of their family members, Human Rights Watch believes there is a high likelihood of a gross miscarriage of justice should the court convict on the basis of the proceedings of the current trial.

Human Rights Watch/Helsinki calls on the Georgian government, Supreme Court, General Procuracy, Ministry of Internal Affairs, Bar Association, governmental human rights committees, and on presiding judge Mirza Dolidze to honor Georgia's obligations concerning due process and prohibition of torture enshrined in the International Covenant on Civil and Political Rights (ICCPR) and in other instruments. Ironically, Georgia acceded to the ICCPR in the fall of 1994, even as the rights protected in the covenant continued to be flagrantly violated in this case. In addition, the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Forms demands that confessions and other evidence obtained under torture or cruel treatment be ruled inadmissible.¹

BACKGROUND

Between May and October 1992, nineteen men were arrested in Tbilisi and Baky, the capital of neighboring Azerbaijan, in connection with seven separate criminal investigations. Prominent among the charges is conspiracy to commit a terrorist bombing on June 15, 1992, which apparently targeted and ultimately missed leading government

figure Jaba Ioseliani, but took the lives of five passersby. Other charges include: alleged abuse of power and plunder of state property by ousted, now deceased, Georgian President Zviad Gamsakhurdia, Mr. Shevardnadze's predecessor as head of state; attempted terrorist acts in the Khvareli forest in eastern Georgia in 1991 and 1992; alleged armed resistance during the violent coup d'etat in Tbilisi in 1992; alleged attempts to hamper the elections of October 11, 1992, which confirmed Mr. Shevardnadze in his position as Head of State; attempted assassination of Acting Procurator General of Georgia Vakhtang Razmadze; and alleged theft of French perfume from a factory. Some defendants were implicated in more than one incident.

Human Rights Watch/Helsinki has previously documented many due process violations in this case: torture of the defendants, illegal arrests and searches of individuals, including family members of defendants, who were never charged with any misconduct; interrogation under torture; denial of access to medical care; illegal seizure of property; denial of timely access to legal counsel of one's choosing; denial of the right to familiarize oneself with information pertinent to one's case; and harassment of family members and of defense attorneys.²

The physical abuse of suspects, intimidation and mistreatment during interrogation, and violations of due process committed in this case, are not uncommon in Georgia. Moreover, the flagrantly illegal behavior of the judge and Bar Association and the failure of the government to respond adequately to reports of abuse in this case reflect a high-level susceptibility to both popular and political pressure for a quick trial and a harsh sentence. Rampant, violent crime plagues the country, and the 1992 street bombing provoked popular outrage. The Georgian government, besieged by political and economic chaos, has directed extraordinary resources to prosecuting the attacks by its opponents in case no. 7493810, such as the attempted assassinations of Jaba Ioseliani and Vakhtang Razmadze, alleged misdeeds of Zviad Gamsakhurdia, violent seizure of the media stations in 1992, and alleged attempts to hamper the 1992 elections. Mr. Shevardnadze has himself publicly and repeatedly referred to the defendants as "terrorists" and assumed their guilt, contributing to a public atmosphere that makes a fair trial all but impossible. It is important to punish these crimes, some of which are indeed ghastly, and to bring justice to those who caused the death of five innocent people. But it is just as important that the charged political atmosphere surrounding the case not cause a miscarriage of justice.

VIOLATIONS

Since our August 1994 report was issued, violations have continued unabated:

Torture

On August 13 and December 11, 1994, defendant Viktor Domukhovsky, who faces the death sentence if convicted, was savagely beaten in his cell. The presiding judge denied him the right to submit a protest at his trial, denied him medical care following the beatings, and subsequently barred him and his chosen legal representatives from the court proceedings without due cause (see below, "Violations: Denial of the Right to Confront Evidence").

According to a statement by Mr. Domukhovsky, on August 13, 1994, the same day that Human Rights Watch/Helsinki, the independent Moscow human rights group "Memorial" and the Georgian governmental Committee for Human Rights and Interethnic Relations held a joint press conference in Tbilisi on the subject of violations in the trial, several local law enforcement officials entered his cell and demanded that he yield notes he had been taking on the hearings. When he refused, they reportedly beat him, leaving him with numerous head and body injuries.

On December 11, 1994, seven drunken fellow inmates were reportedly given the keys to the cells of several of the defendants in the trial who are facing the most serious charges, including Petre Gelbakhiani, Gedevan Gelbakhiani, Irakli Dokvadze and Viktor Domukhovsky. They reportedly visited several cells, but beat only Mr. Domukhovsky. Mr. Domukhovsky was already weak, since he was on the nineteenth day of a hunger strike launched in part to protest the

fact that he and other defendants' were being barred from the proceedings. A senior official at the Ministry of Internal Affairs, Mr. Chvarelashvili, reportedly met with Mr. Domukhovsky following the attack and initiated a criminal investigation into the matter; as of this writing, the findings of the investigation are unknown. The judge reportedly did not allow Mr. Domukhovsky's protest of the beating to be submitted into the legal record. Because of injuries suffered in the attack, Mr. Domukhovsky was forced to end his hunger strike. He and his chosen legal counsel remain barred from the proceedings; his court-appointed lawyer was expelled from the Bar Association and thereby stripped of his legal accreditation (see below).

Violations of Due Process

Denial of the Right to Confront Evidence

A trial cannot be entirely fair if it is carried out without the presence of the defendant, who must be able to know the accusations against him, to confront the evidence presented against him, and to present evidence of his innocence.³ Yet in the fall of 1994, Judge Dolidze began barring defendants and their legal counsel from the proceedings. Since they are unable to participate in the proceedings, the trial has sped up dramatically. The judge removed one defendant, Omari Kochlamazashvili, from the case entirely, following a break in the trial due to the defendant's illness, and has failed to explain the current status of Mr. Kochlamazashvili's case. [Erika: clarify - we object to cases being linked and now also to being separated? Also, did I explain "legal status" correctly - Jlaber] The judge has barred defendants for reasons as arbitrary and legally unacceptable as "smirking" (in the case of Zaza Tsiklauri).

As of this writing, twelve of the nineteen defendants are barred from their own trial. All but one are being tried on charges that can carry the death penalty. Those barred are (in alphabetical order):

Mamuka Aptsiauri

Zurab Bardzimashvivli

Irakli Dokvadze

Viktor Domukhovsky

Gedevan Gelbakhiani

Petre Gelbakhiani

Zurab Gogichashvili

Teimuraz Kapanadze

Omari Kochlamazashvili

Gocha Makhviladze

Tamaz Tsiklauri

Zaza Tsiklauri

Denial of the Attorney's Right of Access to the Court

The Georgian Bar Association, roughly the equivalent of a Lawyers' Union or Bar Association in many countries, has removed several defense lawyers from Case No. 7493810, stripping them of their right to practice law in Georgia and denying the defendants legal counsel of choice, in violation of international law. The Bar Association expelled Tengiz Nijeradze, counsel for Zaza Tsiklauri and Viktor Domukhovsky, on June 6, 1994. On October 10, 1994, it also removed Iuza Jhamadze, a court-appointed replacement counsel for Viktor Domukhovsky, reportedly citing his failure to obey the court order for him to represent Mr. Domukhovsky, who rejected Jhamadze as his attorney.

Judge Dolidze ordered Mr. Domukhovsky's chosen legal defenders - his wife, Rusudan Kikaleishvili, and public defender Giorgi Khoshtaria - stripped of their legal right to defend Mr. Domukhovsky on September 12 and October 19, respectively. On January 3, 1995, after a Human Rights Watch/Helsinki representative who had been attending the trial left the courthouse, the judge reportedly ordered both of them out of the courtroom arbitrarily, forbidding them from attending the trial even as observers in the public seating area.

RESPONSE OF THE GEORGIAN GOVERNMENT

In June and August of 1994, Human Rights Watch/Helsinki representatives travelled to Tbilisi to gather information about the human rights situation in Georgia as part of our ongoing work in the country. The government granted us meetings with almost all of the numerous agencies we requested, except with representatives of the Procuracy and of the Ministry of Internal Affairs, who, despite our written requests for meetings and subsequent phone calls, declined to meet with us.

A representative of the governmental Committee on Human Rights and Interethnic Relations has reportedly attended the trial "regularly" and reported back to the committee. The chairman of the committee, Aleksandre Kavsadze, and his colleagues have met with the defendants in detention, and have facilitated one visit between a representative of Human Rights Watch/Helsinki and of the Moscow-based human rights group "Memorial" with a seriously ill defendant, Zurab Bardzimashvili. Mr. Kavsadze also reports that he has issued protests of due process violations to the responsible court. He meets regularly with representatives of our organization, and participated in a joint press conference on the trial and human rights violations in Tbilisi in August 1994 with representatives of our organization and of Memorial.

Despite these actions, the committee has had little noticeable effect in mitigating or correcting the abuses in the trial. Moreover, Mr. Kavsadze has resisted investigating many credible reports of abuse. For example, he commented during a January 3, 1995, meeting with a Human Rights Watch/Helsinki representative that he was aware that twelve of the nineteen defendants were being tried in their absence, but stated that he did not intend to investigate or protest this. Indeed, he defended their expulsion by stating they were "impeding" the trial. He claimed that criticism of reported abuse was "interference" that should be avoided since Georgia was a struggling new democracy. He further stated that he felt it was "pointless" for his committee to raise concern about violations in the trial and should wait instead for an appeal, should the defendants be dissatisfied with the ruling of the court. This attitude is at best irresponsible and uninformed: the trial court in this case is the highest court in the country, and hence the defendants have no recourse to appeal. He ended the meeting with an anecdote warning against "making heroes" of the defendants. [Erika: Everyone here believes that there must be an appeals mechanism - perhaps to the full court - and we will look foolish saying there isn't. Either check this out or omit. Also, if you pursue this, make the case that there must be a right to appeal according to ICCPR Article 14 (5). - JLaber]

On the basis of specific inquiries, Human Rights Watch/Helsinki has received written responses concerning allegations of abuse in this case from the Office of the General Procuracy of Georgia (*see* Appendix C) and from the Committee on Human Rights and Interethnic Relations. Both confirmed that the government had initiated two criminal investigations

into allegations of torture, but that the investigations had not resulted in any charges; since the victims allegedly were unwilling to give testimony or to press charges, the investigation could not be completed. Human Rights Watch/Helsinki believes it is unreasonable to expect victims who are still held in the same facility and are under the control of the same penal and investigatory administration under which they allege the torture took place to give incriminating testimony necessary to complete such investigations (see below, under "Recommendations").

Neither the Procuracy not the committee explained why reports of abuse made by the other seventeen defendants have not been formally investigated, or why the government has not allowed independent medical experts to examine all defendants and submit their findings to the court.

Neither letter addressed any of the concerns raised about other due process violations.

Human Rights Watch/Helsinki wrote to the Procuracy for a clarification of the reasons seven separate and seemingly unrelated criminal cases were united into one. The letter from the Procuracy merely listed the suspects arrested in five of the seven cases; it neglected to respond regarding two cases. It did not explain how the seven cases were interrelated.

RECOMMENDATIONS

To The Supreme Court of the Republic of Georgia and Judge Mirza Dolidze:

- Implement immediately the pertinent recommendations submitted by our organization in our August report (see Appendix B).

In addition:

- Exclude all evidence obtained through torture or in violation of due process;
- Order that all defendants be returned to the courtroom immediately;
- Order that all defense lawyers be allowed to be present at the trial and submit all legal materials without impediment, in accordance with the law;
- Allow all defendants to be defended by the legal counsel of their choice;
- Allow independent medical experts immediate access to the defendants;
- Ensure that independent medical examinations be conducted to the full satisfaction of the defendants and examining medical professional(s);
- Allow the conclusions of the examinations to be submitted as legal evidence in the case for the consideration of the presiding court [Erika: I thought the Supreme Court was the presiding court Rachel];
- Resolve the legal status of Omari Kochlamazashvili's case;
- Annul proceedings that have taken place without the defendants' presence, or without allowing the defense to participate in a significant way. Those parts of the proceedings should be repeated, if possible, with the defendants in attendance and with full respect for the defense's right to cross-examine, object, and appeal.

To the General Procurator of the Republic of Georgia:

- Investigate and prosecute rigorously in full conformity with international legal standards individuals suspected of committing, ordering or failing to report torture;
- Guarantee the safety of all individuals bringing allegations of torture, and ensure that personnel accused of torture are removed from positions of authority over those alleging abuse.

To the International Community:

- Raise concern immediately with Georgian counterparts about the violations documented in this trial;
- The OSCE mission in Georgia should send independent observers to monitor the trial, as should the embassies of the United States, France, and Germany in particular;
- Monitor closely and publicize other investigations and trials in which due process violations are reported.

APPENDIX A: LIST OF DEFENDANTS AND CHARGES AGAINST THEM

(in alphabetical order)

The following information was taken from the indictment statement as it stood when the investigation was concluded in August 1993. Many of the charges are said to have been changed in the course of the investigation.

1. Mamuka Aptsiauri: born 1971. Arrested September 2, 1992, Khvareli. Charged with violating Articles 17 (67) (attempted terrorism) and 17 (69) (attempted subversive act) of the Criminal Code of the Republic of Georgia. [Erika: from Mike McC: if this is Art. 17, clause 67, should be 17 (67); otherwise it reads as articles 17 through 67! From Anne: I tried to change them,(and got through 6 no problem, but got lost in no. 7 and no. 8 regarding the '104'. Please check what I have done and revise all the rest in the appropriate way!!! Thanks, Anne)
2. Zurab Bardzimashvili: born 1949; geologist. Arrested on October 5, 1992, Tbilisi. Charged with violating Articles 17 (67) (terrorism), 78 (banditry), 17 (69) (subversive act) of the Criminal Code.
3. Bessarion Bochoridze: born 1961; profession unknown. Arrested August 11, 1992. Charged with violating Articles 90 (1) (failure to report a state criminal act) and 205 (concealment of a criminal act) of the Criminal Code.
4. Ramazi Charigogdishvili: born 1960; driver. Arrested July 10 or 11, 1992, Tbilisi. Charged with violating Article 78 (banditry) of the Criminal Code.
5. Mamuka Danelia: born 1959; student. Arrested August 13, 1992, Tbilisi. Charged with violating Articles 90 (failure to report a state criminal act) and 206 (concealment of a criminal act) of the Criminal Code.
6. Viktor Domukhovskii: born 1948; physicist, former Deputy of the Supreme Council of Georgia, former chairman of the Judicial Commission. Arrested on April 6, 1993, in Baky, Republic of Azerbaijan. Charged with violating Articles 17 (67) (attempted terrorism), 17 (69) (attempted subversive act) and 78 (banditry) of the Criminal Code.
7. Irakli Dokvadze: born 1961; television and radio engineer, electrician. Arrested September 4, 1992, Khvareli.

Charged with violation of Articles 17 (67) (attempted terrorism), 17 (69) (attempted subversive act), 78 (banditry), 104, parts 4 and 6 (premeditated murder of two or more people) and 104, parts 4 and 6 (murder) of the Criminal Code.

8. Gedevan Gelbakhiani: born 1937; doctor, professor; therapist. Arrested on September 13, 1992, Tbilisi. Charged with violation of Articles 17 (67) (terrorism), 17 (69) (subversive act), 78 (banditry), 17 (104), parts 4 and 6 (premeditated murder of two or more people) and 104, parts 4 and 6 of the Criminal Code.

9. Petre Gelbakhiani: born 1962; doctor, candidate of medical sciences. Arrested April 6, 1993, Baky, Republic of Azerbaijan. Charged with violation of Articles 17 (67) (attempted terrorism), 17 (69) (attempted subversive act), 78 (banditry), 17 (104), parts 4 (premeditated murder of two or more people) and (104), parts 4 and 6, of the Criminal Code.

10. Zurab Gogichashvili: born 1956; farmer, technician. Arrested September 24 or 30, 1992. Charged with violating Articles 17 (67) (attempted terrorism), 17 (69) (attempted subversive act) and 78 (banditry) of the Criminal Code.

11. Givi Kalmakhelidze: born 1952; military. Arrested September 29 or October 7, 1992. Charged with violating Articles 17 (67) (attempted terrorism) and 78 (banditry) of the Criminal Code.

12. Teimuraz Kapanadze: born 1950; construction worker, chief of the Republican Committee of Material Resources. Arrested October 5 or 6, 1992. Charged with violating Articles 17 (67) (attempted terrorism), 17 (69) (attempted subversive act) and 78 (banditry) of the Criminal Code.

13. Sergo Khakhviashvili: born 1966; carpenter. Arrested June 24, 1992, Tbilisi. Charged with violating Articles 17-67 (attempted terrorism) and 78 (banditry) of the Criminal Code.

14. Omari Kochlamazashvili: born 1943; driver, farmer. Arrested October 4 or 7, 1992. Charges unconfirmed, but are likely to include violations of Articles 17-67 (attempted terrorism), 17-69 (attempted subversive act), and 78 (banditry) of the Criminal Code.

15. Ivane Lashkarashvili: born 1960; driver. Arrested on July 11, 1992. Charged with violating Article 78 (banditry) of the Criminal Code of the Republic of Georgia.

16. Gocha Makhviladze: born 1958; economist. Arrested June 24, 1992, Tbilisi. Charged with violating Articles 17-67 (attempted terrorism) and 78 (banditry) of the Criminal Code.

17. Gela Mchedlishvili: born 1968, policeman, teacher at technical college. Arrested June 24, 1992, Tbilisi. Charged with violating Articles 17-67 (attempted terrorism) and 78 (banditry) of the Criminal Code.

18. Tamaz Tsiklauri: born 1954; economist. Arrested October 5, 1992, Tbilisi. Charged with violating Articles 17-67 (attempted terrorism), 17-69 (attempted subversive act) and 78 (banditry) of the Criminal Code.

19. Zaza Tsiklauri: born 1961; physicist. Arrested on August 7, 1992, Tso, Republic of Georgia. Charged with violating Article 238, parts 1, 2, 3 and 4 of the Criminal Code (illegal possession, holding, transport, buying, production and selling of a weapon or explosive device).

APPENDIX B: HUMAN RIGHTS WATCH/HELSINKI RECOMMENDATIONS FROM AUGUST 1994

It is the responsibility of the government of the Republic of Georgia and of those acting in an official capacity for the government to take all steps necessary to prevent acts of torture and mistreatment on its territory and to provide redress to those who have suffered such treatment. The defendants in this case require such redress. Furthermore, the government and its agents must ensure that defendants are given a fair and impartial forum in which to have the evidence against them evaluated. Human Rights Watch/Helsinki makes the following recommendations:

To Judge Mirza Dolidze:

- Exclude from the record of the trial any statement by a defendant that is intended to be used against him and that is shown to have been obtained through torture or other coercive means. Such statements are admissible only to prove the allegation of torture or coercion. Similarly, exclude from the evidence for the prosecution any physical or documentary evidence that was obtained as a result of torture or coercion;
- If, during the course of the proceedings, evidence reveals that the defendants were not informed of the charges against them in a timely manner, prosecute those responsible and provide defendants with damages;
- Guarantee defendants access to the legal counsel of their choosing and ensure that defendants are given sufficient time to consult with their defense counsel to prepare their defense;
- Guarantee to defendants and their defense counsel equal access to all relevant evidence in the case, sufficient time to familiarize themselves with such evidence, as well as the chance to present their own evidence and to petition for the production of evidence for the defense;
- Guarantee to those defendants who do not speak or understand Georgian the free assistance of an interpreter.
- Allow defendants access to proper medical evaluations and release into the care of medical professionals those defendants who are determined to be in poor health.

To the General Procuracy of the Republic of Georgia:

- Initiate prompt and impartial investigations into allegations of torture and mistreatment of individuals under investigation and, where such allegations are substantiated, ensure that the victims are able to obtain an adequate remedy as provided for in international law;
- Ensure that any statements that are shown to have been the result of torture or coercion, as well as any other evidence so obtained, are not offered as evidence in any proceeding against the defendants;
- Initiate prompt and impartial investigations into the alleged torture of detainees by police officers in this case, and if there is evidence of torture, bring criminal charges against all who committed acts of torture, as well as against any public officials who consented to or acquiesced in the torture.
- Review the legality of the defendants' detention and prosecute anyone responsible for an illegal arrest. Any evidence for the prosecution obtained through the illegal arrest of the defendant should be excluded from his case. If the arrest is deemed illegal and the decision to prosecute is not otherwise based on legally obtained evidence, then the defendant should be released.

To the Government of the Republic of Georgia:

- Review interrogation rules and procedures for the custody and treatment of those in custody in an effort to prevent future acts of torture;
- Educate all law enforcement officials and public officials about the absolute prohibition against torture and make clear that any official proved to have committed an act of torture or to have consented to or acquiesced in acts of torture will be charged with a criminal offense and prosecuted to the full extent of the law;
- Provide an effective means of redress for the victim of torture and the right to fair and adequate compensation;
- Ensure that victims of torture have the opportunity to file a complaint against those responsible for their torture and guarantee both the victim and his or her supporting witnesses safety from ill-treatment or intimidation as a consequence of the complaint.

APPENDIX C: LETTER TO HUMAN RIGHTS WATCH/HELSINKI FROM GENERAL PROCURACY

Unofficial Translation from Russian

380033 Tbilisi

Gorgasali kucha 24

Procuracy of the Republic of Georgia

No. 810

September 28, 1994

Dear Mr. Jeri Laber,

We have carefully familiarized ourselves with your letter of September 19 concerning Criminal Case No. 7493810, which is being followed by the Procuracy of the Republic of Georgia, regarding charges against P. Gelbakhiani, I. Dokvadze and others [and] inform [you] that the given case has been investigated in accordance with the criminal-procedural legislature of the Republic of Georgia.

The conclusions drawn by your organization in the report about violations of procedural norms during the course of the investigation rely only on the information of interested parties.

The assertions that, reportedly, illegal methods were used against the defendants - beating and torture with the aim of extracting testimonies of guilt necessary to the investigation, to confirm which information is cited concerning the physical injuries to Gedevan Gelbakhiani and Zaza Tsiklauri - do not originate from objective materials of the case.

It has been documented that on February 8, 1993, prisoner G. Chogovadze inflicted on G. Gelbakhiani physical injuries in investigative isolation cell No. 1 of the City of Tbilisi as the result of a fight which arose among them (*na bytovoi pochve*).

On the basis of this incident, a criminal case was initiated on that same day.

Investigation of the aforementioned confirmed, and also proved, that this incident had no relation to the criminal case concerning G. Gelbakhiani.

G. Gelbakhiani himself confirmed the fact of the fight with G. Chogovadze and also showed that in the course of the investigation he was neither influenced by nor forced to give testimony of one sort or another to the investigation.

G. Chogovadze was not brought up for criminal accountability for injuring G. Gelbakhiani and a sentence was brought against him (*sic*).

Concerning Zaza Tsiklauri it is necessary to note the following:

On August 18, 1992, a criminal case was initiated in the Procuracy of the Republic of Georgia on the basis of the infliction of bodily harm on Zaza Tsiklauri.

It has been documented that in June 1992, Zaza Tsiklauri and other members of the criminal group [including] Mchedlishvili, Makhviladze and others brought from the city of Grozny explosive substances, fire arms and ammunition, for which he was brought to criminal accountability and he was arrested. Since Zaza Tsiklauri hid from the investigation, a search was initiated. On August 7, 1992, he was detained at his house. When he was being transferred to the SaburtaloROVD in a Volga car, in order to avoid the expected punishment, Zaza Tsiklauri attempted to flee, jumped out of the car, however he fell on the asphalt, and as a result received less serious physical injuries and was detained. The aforementioned has been documented both by the testimonies of Tsiklauri himself and by other eyewitness testimonies and materials contained in the case.

It is necessary to note that on August 21, 1992, representatives of the government and of society of Georgia Z. Kiknadze, T. Berdzenishvili, V. Rtskhiladze, Ch. Amiredzhibi, Z. Zhvania and others met with prisoner Z. Tsiklauri in investigative cell No. 1 in Tbilisi. He has also met with representatives of international organizations, where he announced that he received the physical injuries as a result of attempting to flee, when he threw himself on the way from the automobile. He categorically denied that any physical harm was done to him.

It is necessary to note that the guilt of the suspects in the perpetration of the crimes for which they are incriminated is documented not only by their own confessions but by the testimony of numerous witnesses, physical evidence and other materials contained in the case.

You were unclear on the reasons for unifying into one case several criminal cases which, in your opinion, are dissimilar in nature.

We clarify that in accordance with Article 23 of the Criminal Code of the Republic of Georgia, criminal cases are united into one case in instances when there are charges against several individuals in joint involvement in the perpetration of one or more crimes.

In the given case, criminal cases have been united into one case against individuals who perpetrated several crimes and who are facing charges [connected with] various episodes. This, in connection with the incident of the bomb explosion on Chikovani Street Dokvadze, Gelbakhiani, Kalmakhedidze, Makhviladze, Kochlamazashvili, Khakhviashvili and T. Tsiklauri were brought up on criminal charges.

For committing banditry in the Khvareli region, from among 19 individuals Irakli Dokvadze, and Petre and Gedevan Gelbakhiani were brought up on criminal charges.

For seizure of social property in particularly large sizes from the organization "Lavri" G. Mchedlishvili, G. Makhviladze, G. Charigodishvili (sic) and I. Lashkarashvili were brought up on criminal charges.

In connection with the assassination attempt on Procurator General V. Razmadze Z. Bardzimashvili, [illegible]. Gogichashvili, T. Kapanadze and T. Tsiklauri were brought up on criminal charges.

For organizing explosions and for terrorist acts G. Kalmakhelidze, T. Kapanadze and O. [illegible] were brought up on criminal charges.

Thus it is clear that they and other individuals committed several crimes, for which the given criminal [illegible].

Concerning the releases of arrested individuals Georgi Khakhviashvili, Gocha Makhviladze and Gela Mchedlishvili, in accordance with the manifesto of August 3, 1992, we inform [you] that the aforementioned individuals were freed from criminal accountability for bandit-attack on the Teleradio Center in Tbilisi in accordance with the manifesto.

Concerning the bandit-attack on the organization "Lavri," as a result of which state and social property of particularly large size was seized, and also concerning the incidents of terrorism, the investigation has continued since the manifesto does not cover these crimes.

All of the defendants were provided with defense by attorneys of their choosing during the course of the investigation and all investigative actions were conducted with the participation of the attorneys.

The impression is left that an organization as respected by us as yours, which is dedicated to assisting a newly independent state in matters of human rights protection and the creation of a legal government, is, in reality, not having any arguments and evidence, discrediting republican law-enforcement organs.

Unfortunately, it must be noted that representatives of your organization did not meet with any of the investigators or procurators covering the given case. As a result of this, incorrect information was presented to the public, and with this the civil rights of the investigative workers were violated.

Currently, the trial of this case continues, and, in accordance with recognized legal principles, interference in the trial is prohibited prior to the taking of an objective decision.

Respectfully,

Deputy of the General Procurator of the Republic of Georgia

State Advisor for Justice

A. Baluashvili

¹ As of this writing, Georgia is not a signatory to the Convention on Torture. However, Human Rights Watch/Helsinki believes that all countries should apply this exclusionary rule as the most appropriate to discourage the use of torture.

² See Human Rights Watch/Helsinki, "Georgia: Torture and Gross Violations of Due Process in Georgia," *A Human Rights Watch Short Report*, vol. 6, no. 11, August 1994.

³ In exceptional circumstances, a court may legitimately remove persons - including the defendant - from the proceedings if that is the only

way to ensure that the proceedings can continue. In such a case, if the court seeks to remove a defendant, it must demonstrate that there has been a serious disruption, that there is no other way to rectify the problem, and that the measure is temporary and partial.